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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,712	03/04/2002	Norbert Frisch	1454.1227	2822

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EXAMINER

MANOSKEY, JOSEPH D

ART UNIT	PAPER NUMBER
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2113

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,712

Applicant(s)

FRISCH, NORBERT

Examiner

Joseph D. Manoskey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11, 13-21, 23, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Rishi et al, U.S. Patent 5,953,530, hereinafter referred to as "Rishi".

3. Referring to claims 1 and 23, Rishi teaches a method of maintaining status of memory locations that are allocated and deallocated. The method uses the status to determine memory leaks that can be caused by routines terminating without freeing up the memory, this is interpreted as a method for ascertaining an assignability of at least one operating means in a computer system after at least one process accessing the operating means in a computer system after at least one process accessing the operating means has stopped (See Col. 2, line 55 to Col. 3, line 20).

Rishi discloses the method of keeping a status and comparing last known values with current values, this is interpreted as preparing a first state vector for the operating means before the process is put into operation, preparing a second state vector for the operating means after the process has stopped, and comparing the first and second

state vectors for discrepancies in order to ascertain whether the stopping of the process has resulted in unassignable operating means (See Col. 2, line 55 to Col. 3, line 20, and Col. 13, lines 61-63).

4. Referring to claims 2, 3, and 13, Rishi discloses the method run on a shared memory system (See Col. 10, lines 55-60).

5. Referring to claims 4 and 14, Rishi teaches the method dealing with detecting access to memory that is user memory, this is interpreted as wherein the process is a user process (See Col. 6, lines 47-55).

6. Referring to claims 5 and 15, Rishi discloses the method having memory leaks because a routine terminates without freeing up the memory, this is interpreted as wherein stopping arises as a result of unintentional termination of the process (See Col. 3, lines 10-20).

7. Referring to claims 6 and 16, Rishi teaches the method accumulating information regarding address and size of memory, this interpreted as wherein the two state vectors each comprise a plurality of parameters which relate to the assignability of the at least one operating means (See Col. 7, lines 25-35).

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8. Referring to claims 7 and 17, Rishi discloses the method run on a shared memory system (See Col. 10, lines 55-60). Rishi also discloses the method accumulating information regarding address, size of memory, and area, this is interpreted as the state vectors are selected from the group consisting of amount of memory used, address of used memory portion, and identification of portion of memory that is available (See Col. 7, lines 25-35).

9. Referring to claims 8 and 18, Rishi teaches the method containing the thread ID, this is interpreted as at least one of the first state vector and the second state vector records, using a process identifier, the process which is accessing the operating means (See Col. 13, lines 12-25).

10. Referring to claims 9 and 19, Rishi discloses the method run on a shared memory system, this is interpreted wherein the method takes into account at least one of all physical operating means and all virtual operating means (See Col. 10, lines 55-60).

11. Referring to claims 10 and 20, Rishi discloses the method run on a shared memory system, this is interpreted as wherein some of the operating means are taken into account, in particular the shared operating means (See Col. 10, lines 55-60).

12. Referring to claims 11 and 21, Rishi teaches the state of threads that is stored being the operating system state, this is interpreted as wherein at least one of the first state vector and the second state vector is recorded by testing an operating system service (See Col. 12, lines 38-40).

13. Referring to claim 25, Rishi teaches a method of maintaining status of memory locations that are allocated and deallocated. The method uses the status to determine memory leaks that can be caused by routines terminating without freeing up the memory. The method is stored and run on a computer system, this is interpreted as a computer readable medium storing at least one program for controlling a computer to perform a method of accessing a memory after a program has unintentionally stopped (See Col. 2, line 55 to Col. 3, line 20).

Rishi discloses the method of keeping a status and comparing last known values with current values, this is interpreted as preparing a first state vector for the operating means before the process is put into operation, preparing a second state vector for the operating means after the process has stopped, and comparing the first and second state vectors for discrepancies in order to ascertain whether the stopping of the process has resulted in unassignable operating means (See Col. 2, line 55 to Col. 3, line 20, and Col. 13, lines 61-63).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 12 and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Rishi in view of Kidder et al., U.S. Patent Application Publication 2004/0031030, hereinafter referred to as "Kidder".

16. Referring to claims 12, Rishi teaches a method of maintaining status of memory locations that are allocated and deallocated. The method uses the status to determine memory leaks that can be caused by routines terminating without freeing up the memory (See Col. 2, line 55 to Col. 3, line 20).

Rishi discloses the method of keeping a status and comparing last known values with current values, this is interpreted as preparing a first state vector for the operating means before the process is put into operation, preparing a second state vector for the operating means after the process has stopped, and comparing the first and second state vectors for discrepancies in order to ascertain whether the stopping of the process has resulted in unassignable operating means (See Col. 2, line 55 to Col. 3, line 20, and Col. 13, lines 61-63).

Rishi does not disclose rebooting the process if the first and second state vectors match and starting at least one mechanism for unblocking the operating means if the first and second state vectors do not match, however Rishi does teach that teach determining memory leaks that cause memory locations to be no longer accessible (See Col. 3, lines 10-20). Kidder teaches restarting a process or rebooting the system in the event of a memory leak (See paragraph 0554).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the restarting of the application or rebooting of the system of Kidder with the method to determine memory leaks of Rishi. This would have been obvious to one of ordinary skill in the art at the time of the invention to do because the reboot of the system will free up the leaked memory (See Kidder, paragraph 0554).

17. Referring to claim 24, Rishi teaches all the limitations (See rejection of claim 23) except restarting the process if the first and second state vectors match and rebooting an operating system if the first and second state vectors do not match, however Rishi does teach that teach determining memory leaks that cause memory locations to be no longer accessible (See Col. 3, lines 10-20). Kidder teaches restarting a process or rebooting the system in the event of a memory leak (See paragraph 0554).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the restarting of the application or rebooting of the system of Kidder with the method to determine memory leaks of Rishi. This would have been obvious to one of

ordinary skill in the art at the time of the invention to do because the reboot of the system will free up the leaked memory (See Kidder, paragraph 0554).

Response to Arguments

18. Applicant's arguments, see page 7 of amendment, filed 09 May 2005, with respect to claim 23 have been fully considered and are persuasive. The 35 U.S.C. 112, second paragraph, rejection of claim 23 has been withdrawn.

19. Applicant's arguments, see page 7 and 8 of amendment, filed 09 May 2005, with respect to claims 1-21 and 23-25 have been fully considered but they are not persuasive.

20. The Applicant argues that Rishi does not teach the following: (1) Rishi et al. does not disclose state vectors by means of which an unambiguous conclusion is made regarding whether the operating means is available. (2) Rishi et al. does not disclose that a first state vector is determined before setting a process into operation. (3) Rishi et al. does not disclose that a second state vector is determined after a process is finished. (4) Rishi et al. does not determine whether an unassignable operating means has resulted, using the above process. The Examiner respectfully disagrees.

Rishi teaches a method of maintaining status of memory locations that are allocated (before) and deallocated (after). The method uses the status, (state vector), to determine memory leaks (determining whether an unassignable operating means has

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resulted) that can be caused by routines terminating (after a process is finished) without freeing up the memory (See Col. 2, line 55 to Col. 3, line 20).

Rishi discloses the method of keeping a status (state vector) and comparing (determining whether an unassignable operating means has resulted) last known values (before) with current values (after) (See Col. 2, line 55 to Col. 3, line 20, and Col. 13, lines 61-63).

21. The Applicant also argues the use of the word "process" and the word "program" as being different. The Examiner respectfully disagrees. In the Microsoft Press Computer Dictionary a process is defined as a program, thus the two terms are synonymous (See page 318 of Microsoft Press Computer Dictionary).

22. The Applicant argues that it would not be obvious to combine Rishi with Kidder. The Examiner respectfully disagrees. Rishi does not disclose rebooting the process if the first and second state vectors match and starting at least one mechanism for unblocking the operating means if the first and second state vectors do not match, however Rishi does teach that determining memory leaks that cause memory locations to be no longer accessible (See Col. 3, lines 10-20). Kidder teaches restarting a process or rebooting the system in the event of a memory leak (See paragraph 0554).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the restarting of the application or rebooting of the system of Kidder with the method to determine memory leaks of Rishi. This would have been

obvious to one of ordinary skill in the art at the time of the invention to do because the reboot of the system will free up the leaked memory (See Kidder, paragraph 0554).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Manoskey whose telephone number is (571) 272-3648. The examiner can normally be reached on Mon.-Fri. (7:30am to 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDM
July 19, 2005


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